YESIM NAZLAR:

Good morning, good afternoon, and good evening to everyone. Welcome to the At-Large Consolidated Policy Working Group (CPWG) call taking place on Wednesday, 14 November 2018, at 13:00 UTC.

On our call today, we have Jonathan Zuck, Hadia Elminiawi, Joanna Kulesza, Holly Raiche, Harold Arcos, Cheryl Langdon-Orr, John Laprise, Gordon Chillcott, Marita Moll, Yrjö Lansipuro, Alan Greenberg, Eduardo Diaz, Alfredo Calderon, and Lilian Ivette De Luque.

We have received apologies from Kaili Kan, Christopher Wilkinson, Olivier Crépin-Leblond, Tijani Ben Jemaa, and Maureen Hilyard.

From staff side, we have Evin Erdogdu and myself, Yeşim Nazlar. I'll be managing today's call as well.

Before we start, I would like to remind everyone to state their names please before speaking for the transcription purposes. And also another reminder to mute your lines when not speaking please.

And now I would like to leave the floor back to you, Jonathan. Thank you very much.

JONATHAN ZUCK:

[inaudible] Welcome, everybody, to what could be considered the discombobulated working group call since we have a lot of people at the IGF. [inaudible] probably calling in from strange places [inaudible].

The first item on the agenda is the adoption of the agenda. Basically, we're going to just go through some updates from folks, report in from

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the EPDP, and then some issue presentations from Marita and Holly, and then any other business. So if anybody else has anything specific they want to add to the agenda, raise your hand now.

Without further ado, I'm going to hand the microphone to Hadia for her ten minutes of fame.

HADIA ELMINIAWI: Hello, everyone. This week, we continue the debating [in regard] to [inaudible] natural [inaudible] be allowed or required to differentiate between legal and natural [persons]. As we have it now, they are allowed but not required. The ALAC is of the position that they [should] be allowed and not only they should be required to make this distinction or differentiation and not only allowed.

We noted that some registries are already making this distinction, however the contracted parties along with the non-commercial stakeholder groups continue to disagree with this. They have concerns related to liability and cost. And furthermore, they actually put a statement that they oppose and reject new contractual requirements and would remain opposed as we move forward, move to a final report. We actually find this statement quite surprising as they're not waiting even for – they not only stated their opinion for now but that they continue to oppose this as we move forward.

Another thing we've been discussing were the roles and responsibilities like the roles of registries, registrars, and ICANN. So who's a processor, who's a controller. And actually the request was that registries, registrars, and ICANN enter into a joint controllers agreement. Thomas

and Diane from the IPC, they actually drafted a proposal in this regard and we are still waiting for ICANN's input in this regard. However, we do have an Appendix C of the original [inaudible] table that actually identifies the roles of the registries, registrars, and ICANN. And according to this table, ICANN actually says that it is a controller with regard to all of the processing activities. And we have also the registries and registrars controllers when it comes to disclosure or when it comes to data collection. And also, our work did include the responsibilities.

So what we need to do now is, of course, we're waiting for ICANN's input in this regard, but what we need to do now is look at the drafted proposal and compare this actually with our [inaudible] and the responsibilities that we assigned during our work. Of course, contracted parties and others insist that there should be a joint controller agreement.

So basically those are the two main issues that we've been talking about. We've been talking about also a redaction and which elements should remain and which elements should be redacted. So I think that's about it. If Alan has something to add, I invite him to do so. Thank you.

ALAN GREENBERG: Thank you, Hadia. I think you've covered most of it. I want to emphasize a couple of things. The issue of the contracted parties and NCSG taking a strong position is not particularly surprising. As Hadia said, saying at this point we will remain opposed I think violates the spirit of the whole EPDP, that we know we're going to have to compromise and try to find middle ground. And they're basically saying, sorry, we're not going to

consider any argument no matter what it is. I find that somewhat disturbing.

And note that once anything comes out of the EPDP, it goes to council. And council is going to have to vote on it, and the contracted parties alone together have a veto. Together with the NCSG, they have an unbelievable veto. So they are in a position to say, sorry, we're not going to accept it when it goes to council so you better change now. Which really is quite disturbing in terms of how this is going to unfold.

The issue of who is the controller turns out to be a really critical issue because there are a variety of answers. It could be for any given purpose the contracted party, the registrar and/or registry are controller, or ICANN is. Most combinations of that will not alter what we are going to come out with. There is one that will alter it, however. If ICANN is deemed to be the sole controller, and because we effectively make the rules there is an argument for the being accepted by the data commissioners….

ABDULKARIM OLOYEDE: Hello?

ALAN GREENBERG: Seun, we hear you. So there is an argument for that being considered and if that were to be accepted by the data commissioners, that would change everything because that removes the liability from the contracted parties and their desire to avoid liability is one of the key arguments they're using in many, many of these discussions.

Unfortunately, ICANN is now just in a position of writing a legal memo. We don't know what that says yet. We just heard about it the other day. And we certainly don't know if it's going to be accepted by the data commissioners. So there is a push within the EPDP from some people to defer publishing the report until we know exactly what's going on there. And that I think is very problematic. It's going to defer things basically too late to do anything.

So I believe we should go ahead with the interim report understanding that if we end up with ICANN as the sole controller, then we're going to have to go back and redo work but it's going to be easy, or at least a lot easier than it has been. So we're in a quandary right now. We seem to be almost moving more backward than forward some days. Thank you.

Jonathan, you have your hand up and Seun wanted to speak, so I'll turn the floor back over to you.

JONATHAN ZUCK: I guess my question is for this group. Is there anything we ought to be doing? Should we be somehow making these issues more public in op eds? I mean, when they're making such [inaudible] kind of remarks and taking advantage of their position like [inaudible], is it worth trying to highlight that in CircleID or someplace else with the GAC? Is there anything that this group can be doing to be helpful [inaudible]?

ALAN GREENBERG: Yeah, we're making strong statements, and that's all we can do where we have been given direction by this group. Where we haven't been

given direction is on the issue of geographic distinction because when we did a poll we got very mixed answers. We got some answers saying, yes, allowing geographic distinction will allow more information to be displayed or requiring geographic distinction will allow more information to be displayed and therefore that ends up being good for users because people who use WHOIS information for cybersecurity activities will have more access than they do today. But we have been given very mixed messages, so we're not in a position to say anything on that. So we are basically silent on that argument. The GAC and the non-contracted parties, business and IPC are making strong statements. We're not in a position to support that.

I'm giving you a personal opinion. Hadia and I have not discussed this. Because we are silent on this, we are essentially going back on our original statement saying we want to do anything within the GDPR, we can't violate GDPR, but GDPR does not require us to redact everything for everyone around the world. And we're essentially withdrawing that statement in regard to this, and I find that weakens our position but that's where we are right now.

In terms of CircleID, no, I don't think so.

JONATHAN ZUCK: Thanks, Alan. Should we take that conversation back up again? Because I think we gave it short shrift on the geographic distinctions. Should we try to devote a call to it?

ALAN GREENBERG: That's your call. There will be a – the issue will not be resolved within the [inaudible] report [assuming] it's issue, and we will be called upon to make a statement. So by the time we make a statement, I think we have to have decided one way or another and then stick to it.

JONATHAN ZUCK: All right, I'm going to make that a longer than ten-minute agenda item then for the next call. Thanks, Alan. John, go ahead.

JOHN LAPRISE: Thank you.

ALAN GREENBERG: Don't forget Seun.

JOHN LAPRISE: I am concerned by the conversation revolving around vetoes in terms of the voting power of particular blocks. I guess my first question is, what does the block imagine will be the outcome if they continue to maintain their position with respect to GDPR? Have they thought out the consequences I guess is my question, and what are the consequences? Thank you.

ALAN GREENBERG: I can't answer for what they've thought out or not. They are raising new issues regularly which are much more strident than their initial position, so my only belief is they believe they're going to win and therefore they

can take these stronger positions that even go back on things they agreed to previously. And they've done that several times recently. So I believe they're in a position of strength and they know it, but that's an opinion of mine.

JONATHAN ZUCK: Thanks, John. Seun?

YESIM NAZLAR: Jonathan, that wasn't Seun. We don't have Seun on the call. That was Abdulkarim. Because he had just joined, he was trying to test his audio. So it was just an audio check. Thank you.

ALAN GREENBERG: My mistake.

JONATHAN ZUCK: Okay, thank you. Hadia then. And, Alan, go ahead and mute your line. Hadia? Okay, we'll come back to you, Hadia. Sebastien?

SEBASTIEN BACHOLLET: Can you hear me okay? [inaudible]

JONATHAN ZUCK: Speak up.

SEBASTIEN BACHOLLET: Thank you, Jonathan. I hope it's okay. We discussed this issue with different persons during the IGF here, and I am still puzzled with the way it's done [within] the EPDP. I really appreciate the work that Alan, Hadia, and the others are doing within the EPDP, but sometimes I have the real impression that we are losing more time on where to go.

My feeling is that the [Article 9] [inaudible] the one who could say something [that is leading to us] their opinion about who is in charge of the data will not answer to that. They are not there for [defining] who is the one in charge of [inaudible] data, if it's the registries, the registrars, or ICANN. Therefore, we can't do anything [but that's really this one], I don't think.

And the second point is that as much as we or the other wants to have [inaudible] is just for the personal data. Even if Anglo-Saxon world push that it might be applied to everybody, I don't think it will be possible because it will create so much work to registries, registrars, and ICANN to open some data to any of the law enforcement people around the world and others who will wish to access this data that it will be a mess.

But I understand why they are pushing for that. I just feel that we are losing our time, and I don't know what we will win at the end of this game. [inaudible] PDP or [inaudible] PDP run by the GNSO is better to be [inaudible], but I think you deserve your time back not to do things certainly who will not make [inaudible] any difference, not because of you but because of the other. Sorry for that. Thank you.

JONATHAN ZUCK: Thanks, Sebastien. Hadia, are you back? If you're speaking, we can't hear you. Okay, perhaps write something in the comments [section]. I think we need to move on. So I'm going to invite Marita to give her issue brief on Work Track 5. Go ahead, Marita.

MARITA MOLL: Okay, thanks. I'm waiting to put slides up. I'm going to give a quick overview again of something we ended up with in the last call. I thought it just went by way too fast and I didn't think that people – everybody was exhausted by that time, so no time to really put in a lot of input.

                          I want to run this past you one more time. Work Track 5 is rolling along. There will be a report out with a lot of comments that we're going to have to work on very shortly. I'm just wanting to bring one of them forward so that we can at prepare it in some way and have an idea where the group is going on this.

                          The issue that I'm bringing forward is the applicants for a city name at the moment can circumvent the requirement for a letter of support, so they don't need to ask anyone if they [inaudible] purposes associated with the city. For example, if you wanted to buy .sanfrancisco and us it sourdough bread, then you could do that as long as you weren't talking about San Francisco or using the city in a way to promote the city. That seems to be a gap in [inaudible] the process that can easily be exploited by people who do pick up city names and then just park them.

                          So there's a proposed resolution on the table suggests that geo name [inaudible] the TLD to a significant degree. This takes the major part of the decision out of the hands of the applicant [and] puts it into the

hands of a geo name panel. That seems to be more of a protection for cities and other [inaudible] names. At the moment we're talking about cities, but this is going to come up again when we're talking about other types of geo names. It's a suggestion that could get us out of [inaudible] particular quandary.

What's at stage for end users? As I mentioned, there is a suggestion that there's [inaudible] awareness in the next round to people wanting to pick up city domain names thinking that there is money to be made at this level if you hold onto these for a while. So you can buy and sell them, so there are going to be people out there who are interested in doing that kind of buying and selling. Some people are calling it name scalping. Whatever you want to call it, it just seems like the loophole that could be closed in this particular [session].

I've got how the parties are aligned. I'm not certain that this is correct. I know people in the GAC would like to see that loophole closed, and NCSG is mostly many of them are opposed and don't really want any [rackets] around those kinds of situations.

So I'm just wanting to ask this group where we're going to stand when this comes to the table, which is going to be really soon, and whether or not we would support the new wording or something similar to this wording, support with some adjustments, or we don't have any support in this group for changing that particular application.

So I did want to – Sebastien did bring up something last time. Worried a little bit about having a panel, and that's interesting but I think there probably will be a panel at some point or another because there are

going to be a lot of these geo places, rivers, streams, hills, and mountains to be resolved. So this is not the only time this is going to come up.

I see there are hands up. Am I chairing this or, Jonathan, are you taking over here?

JONATHAN ZUCK: Go ahead and chair it, Marita.

MARITA MOLL: Okay, I'll take Alan. Go ahead.

ALAN GREENBERG: Thank you, Marita. And thank you for the clear presentation. I have a question. The wording is phrased in a curious way. The 2012 says the city "can circumvent the requirement for a letter of support or non-objection by saying they are NOT intending to use the gTLD" for city-related purposes. The new wording talks about the absence of that. "It is clear from applicant statements" requiring that they will use it primarily for city names, but there's no mention that they will not use it.

I'm curious about the stockpiling and scalping, which I strongly object to on many grounds and not only for these types of TLDs, if the application which implicitly has to be part of the final contract says they may not use it to represent themselves as a city TLD, then that should prevent the scalping and that issue. I'm not sure why the focus is not on that side of it. If that's what you're trying to prevent, why don't we have

wording that clearly says you can't do that? And that's then enforceable in the contract. And then you can have a panel to decide their actual use is, in fact, counter to what they have promised. That's it.

MARITA MOLL: Okay, that's interesting. My assumption….

ALAN GREENBERG: It just looks like it's phrased backward to what it should be to prevent something. Sorry, go ahead.

MARITA MOLL: I agree. The whole thing seems right from the get-go in the negative option style like the 2012 one, so it is confusing. You're bringing up that point tells me that, yes, this is confusing. So there needs to be some rewording, but your point is if there is something in the contract that says this name does not belong to them if they try to use it in a [inaudible] way, then the contract would be void. Is that what you're saying?

ALAN GREENBERG: Well, there are recourses in the contract. They would either lose the TLD or have to change how they're using it. But they couldn't continue to use it in a way that was deemed acting as a city TLD if their original application said that's not what we're going to use it for.

MARITA MOLL: Okay, I'll just make one more point on that. I think the idea is not that they're going to use it as a city TLD but that they're going to hold onto it and then sell it off to a city that will use it as a city TLD.

ALAN GREENBERG: But they couldn't according to the contract. If the contract says this cannot be used as a city TLD, selling it doesn't change that contractual term. They're selling the asset that has the qualifications associated with it. All I'm saying is it seems to be a roundabout way of going. If you're trying to stop something from happening, you should say that's what you're trying to stop from happening and not allow it to happen as opposed to putting conditions in which may end up with that result but that's not really what you're doing.

MARITA MOLL: Okay, that's great input, and I'll bring it up with the other people who are supporting this, so thank you for that, Alan. John?

JOHN LAPRISE: I want to strongly support Alan. I don't think that domain speculation is in any of our interests. It runs counter to what we want for the Internet as a general rule. So anything we can do, and you're seeking for policy advice or positioning, at least speaking for myself I would say we want to do everything we can to oppose, block, inhibit the practice of domain speculation, whatever that entails. Thank you.

MARITA MOLL: Okay, thank you, John. These are things that I think we're going to be able to put into the comments when we're going to be able to comment which is going to be very soon. So my intention here was really to get us thinking along these lines and to get some direction for people who are eventually going to be doing those comments. So unless anyone else [wants] to weigh in here, I'll leave it at that.

I had one other slide set. I don't know whether you got it because I see I'm looking at last week's slides here, but I can do it orally. Do I have time to go ahead?

JONATHAN ZUCK: We're about halfway through the call, but is that on a different topic or related to this one?

MARITA MOLL: Well, it's related to this one and it can be really quick.

JONATHAN ZUCK: Okay, if you can be really quick. Sorry about the slides.

MARITA MOLL: Okay, without the slides. I have noticed that in the Work Track 5 there's 150 people or so, 27 of those people have said that they are – SOIs are saying they're from [ALAC]. I'm thinking there must be a way that we can get those people into the participation, into the commenting process. I'm wondering if this [inaudible] ever been done before. Have

we contacted these people who haven't said anything about their ideas or what their ideas are? It's a little frustrating to have only 5 people when you know that there are 27 people there listening and watching and not [inaudible]. Any input on that dilemma?

JONATHAN ZUCK: Marita, I agree completely. Let's take this offline, figure out who they are, and try to reach out to them and bring them into the circle.

MARITA MOLL: Okay, I know who they are.

JONATHAN ZUCK: Okay, sorry, I'm trying to cut the conversation short right now. So let's pursue this. I think that's the answer, unless Alan objects.

MARITA MOLL: Okay, thanks.

ALAN GREENBERG: No. I don't object, but I will comment. Pay attention to the attendance records because lots of people who join the group never, ever do anything at all. So focus on those who are actually there.

JONATHAN ZUCK: Well, that's what we want to change.

ALAN GREENBERG: No, no. But if you're trying to get them to comment, you actually want them to be knowledgeable.

JONATHAN ZUCK: Well, we want to help educate them. We're trying to [inaudible] across people who claim to represent the At-Large.

Let's pass the microphone to Holly and put up her slides. Thank you.

HOLLY RAICHE: Thanks. [inaudible] Consumer Trust, Consumer Choice, Competition report. People will remember that, in fact, it started a year ago with an initial report. There were some material added. We made comments on that as well. So really this is [inaudible] the third round, and I suppose the first comment that we make is [practically] everything we said still stands and we are looking at what's new.

Now in terms of what are the issues, we in our first two replies have actually said competition is not an issue for end users. So we've not made a response on the issues raised by that, and my suggestion is that we continue not to comment on those issues.

Consumer trust is a difficult issue. It's hard to measure. It was hard to measure in the first report, in the middle report, and [they're] still saying there are difficulties in looking at the issue. We need to find some data, and we should support that.

In terms of choice which is also something that we have commented on before, we've said it's important how many issues that are raised in terms of this report we have supported.

Now in terms of the Issue Four which is safeguards, there are a couple of things we've commented on before and suggesting we still support. They raise the issue of community based applications that in fact it has been the criteria and the way that's judged has been difficult. We should do something about it. We should support that.

In terms of the Global South, which is their terminology, there have been very few applications from the Global South. So they suggest measures about more information, perhaps monetary support, better applicant guidelines, clearer, things that will encourage more applications. And my suggestion is also that we support that.

Let's go to the next slide. I'm trying to be quick here.

In terms of end users, competition is just not an issue for us. One thing that has come through on all three reports and I'm not sure how we address it is the expectation from the end user seems to be that there is a relationship between the name itself and the content. Now there's nothing in the contract that requires that kind of connection. The issue of closed generics in a sense requires that if somebody has a generic name that it be open to all comers, but there's nothing that says that the comers have to have a content that relates to the name. So it's a difficult one and I'm not sure how to address it. We haven't addressed it before. I'm not sure we can now. It's not in the recommendations. It's just picked up as something that's a finding and then not addressed.

The other issues for end users, certainly clarification on the whole range of issues for community applications, certainly more clarity in terms of what we do about names. The example that's used in the report, depending on the panels you get different rulings on whether there's confusing similarity between, for example, a singular and a plural. There have been rulings different ways. Now that can be solved by perhaps having only one panel or other ways of requiring the decisions actually on names [inaudible] use the same principles. But confusingly similar names needs to be addressed.

As I said, the other thing that we should pick up is assistance to the Global South in both perhaps monetary and simpler application forms. So from the end user perspective, those are the things that we have supported and I'm suggesting that we continue to support.

In terms of how the parties are aligned, the contracted parties I suspect, and this is not for sure, I would imagine they're more interested in all of the issues raised about is there more competition and who is charging what for whom and so forth. I'm not sure about where the business community stands on this or the NCSG. I think the GAC has been particularly concerned with all of the issues surrounding geo names and closed generics. Those are the things that they've raised. And I'm not sure about SSAC in terms of what we support.

I've only talked about that and in the text that I have put in the wiki those are the things that I suggest we support. And they are quite consistent with what we had said in response to the first report and the interim report.

So are there any questions? And, Jonathan, since you've been really involved with this, go for it.

JONATHAN ZUCK: I was going to just draw folks attention to two things. One [inaudible] the closed generics. It had to do with a survey that the [team] did that found that end users would prefer a more [semantic] web now that the namespace is growing so dramatically. So there is a recommendation there specifically to remove barriers and provide incentives for people to create web space [inaudible] predictable content.

So it's a little bit complicated. It's not about content regulation, but it's about having .doctor to doctors and things like that. So there is a recommendation because part of the problem is that the system is wired right now for generics. In other words, you have a minimum fee that you have to pay ICANN, for example, of $25,000. So anything that amounts to a niche TLD starts to be less viable economically. So it's [inaudible] to figure out how to better support a niche TLD which I think communities fall under as well. So that's something I think that was supported by At-Large in the first set of recommendations. It should be again.

The biggest [inaudible] recommendation that's really going to set the hair on fire of the contracted parties is something called the DADRP that was related to some namespaces having nearly 50% DNS abuse. So there's very little tools for contract compliance to deal with things in a holistic way. They can only reply to complaints on a one-off basis. So there were a couple of recommendations to empower contract

compliance to look at domains that have [inaudible] for DNS abuse. But there's also a proposal to begin to explore a third-party resolution if contract compliance advocates or can't effectively deal with an issue like .science having 50% abuse, etc. So that DADRP is something that I think will be highly controversial and something that would make sense for the At-Large to support.

HOLLY RAICHE: Totally agree. Can you put that comment in the wiki. Doesn't that come out of in the interim report I think you were the one that added a comment about the need to get information about that issue.

JONATHAN ZUCK: I [inaudible] in the At-Large [inaudible] interim report. So I will go in and look at what you've done and add a couple of things. I'm just very biased because I was the original recommender of that.

HOLLY RAICHE: Yeah, I know.

JONATHAN ZUCK: I think [inaudible] DNS abuse are really good issues for the At-Large. Go ahead and take the rest of the queue. Thanks, Holly.

HOLLY RAICHE: John Laprise, go ahead please.

JOHN LAPRISE:

Hi, Holly. Just generally for the record, I'm highly skeptical of these new gTLDs, rather I'm skeptical of the need for them. I understand that there are cases, legitimate cases, where there's a need. But to a large extent to me this is either speculation like we were speaking of before with Marita on Work Track 5 or we're dealing with longtail issues. So it would be a handful of users aside from, as was just mentioned, the case of domain abuse.

And in the very long-term, this problem referring to the semantic web issue, this is likely to solve itself at some point. So I guess I have a general brand of skepticism on the whole thing. To the extent that these domains are useful to end users I am in favor of recommendations that support that. But just I have a [inaudible] take everything with a heavy dose of skepticism. Thank you.

HOLLY RAICHE:

Well, John, put the comment down because this is a debate that has just been going on within ALAC for some time. Do we actually not only are we talking about should [there be] rounds or not, but the more fundamental question should we be supporting new gTLDs. So these comments are really based on if we have either another round or in some way they're open, what have we learned? And in that context, these are the recommendations. But it's fair enough to say, well, actually do we think new gTLDs are something we should support anyway? Or should we simply be putting them in the context of if there

are more new gTLDs, then we should be cleaning up some of the issues that have been identified through this report. So, yeah, put that down.

Alan, go ahead please.

ALAN GREENBERG: Thank you. On the issue of do we need new gTLDs, ICANN to use a vernacular expression in English "drank the Kool-Aid." You can look it up on the web if you don't know what it means. But the short summary is it's a philosophy, you believe it, it doesn't matter what the details are because you believe it. It's a religion. So it's too late for that. We're not going to stop that. We can talk about it. It's very cathartic, but I'm not sure it has a lot of benefit.

Just two comments on a thought on making comments. You can make comments because you strongly believe something. But as Jonathan implied, it's also really important to make strong comments if you believe there's going to be significant pushback from other parties. I think some of the ones that we're looking at here are ones where we know there will be pushback. And if we believe in something, we have to make really strong statements. I'm going to say that again in the next section we're in. Thank you.

HOLLY RAICHE: Okay, thank you. Just a reminder, please, everybody, have a look. It's a long report. I tried simply to summarize what we might do. At least read the executive summary. You'll get a feel for what's in there. But I recognize it is long.

Okay, in terms of the next slide, could I have the next slide please?

YESIM NAZLAR: Holly, do you mean the next slide deck. The WHOIS 2 slide deck?

JONATHAN ZUCK: Yeah, the next presentation, Yesim.

HOLLY RAICHE: Yes, WHOIS Review.

JONATHAN ZUCK: That's right.

YESIM NAZLAR: Okay, excellent. It's coming now.

HOLLY RAICHE: Thank you. Okay, I'm actually looking at the wiki, so I'll just talk first of all to the first slide on the WHOIS Review in terms of what is at issue. There really are two primary issues that have been raised by the report. There are some really strong recommendations about accuracy, which I'll talk about. The other is WHOIS the whole WHOIS issue, which has actually been overtaken by the GDPR and the work that's being done by the unified access model and the EPDP. So in one sense, the WHOIS issue itself has been overtaken.

Just to backtrack a little bit, the WHOIS review that we're talking about, the first one, is a result of the Affirmation of Commitments. It's the agreement that was made with the U.S. in respect of – the agreement that lapsed in October two years ago now. But part of the agreement between the U.S. government, NTIA, and ICANN at the time was that WHOIS is reviewed. And the 2012 review threw up a number of issues and came up with 16 recommendations which were supposed to be reviewed every four years, were not reviewed until, well, 2012 – do the math. It's not four years.

Of the 16 recommendations when it came time, way past time, to have a WHOIS review, the idea was there should be a much shortened one since, in fact, the whole WHOIS issue is being overtaken by GDPR. That said, the review team was formed and it agreed on seven objectives. The first objective was actually what the substance of the review itself to look at all 16 recommendations coming out of the 2012 report and to determine the extent to which they have complied or not. The other objectives, first is just title Anything New. A good look at the law enforcement and the extent to which their needs are being met. The implications for consumer trust. There are some further recommendations about safeguarding registrant data and if that's needed.

A lot of it was looking at contractual compliance, and that relates to a couple of things. After the WHOIS report and the concerns about the accuracy of WHOIS data, compliance developed a number of tools. And part of the work of this group was to look at and assess the effectiveness of compliance and accuracy. It came to some conclusions on that, and then finally just a change in the bylaws.

So when we actually look at the next slide, which is what is at stake for end users, I've identified a couple of things. The first, there are a lot of recommendations about the accuracy for data. Now that's coming through when you look at the discussions on the need for law enforcement and then their use of WHOIS data. I should say registration data and also in the discussion about compliance and the use of WHOIS tools or not.

Now in terms of the parties and how hey might be aligned, it's not clear to me what the contracted parties are going to think. Given that the WHOIS accuracy requirements after the 2012 report both the RAA was amended to include new accuracy requirements and [other specifications]. So I'm assuming this is part of a [rules] for the contracted parties, and I can't see them complaining. NCSG I think is more focused on some of the privacy issues that are raised. GAC certainly has had some concerns about privacy, not as strongly I don't think. And the SSAC, the concerns that they had in 2012 were more about I think correct terminology and some of the accuracy.

It At-Large positioning, we've made it very clear that our concerns have been for law enforcement and others to have access to data which is accurate. That is [included in the] recommendations in relation to compliance, the use of compliance tools, their enforcement of accuracy requirements, the need for transparency, the need for reporting. All of those recommendations come out of this report.

There are other requirements or things that come out, and the report suggests and I would support this some of the recommendations particularly those in respect to things like there should be more

outreach as to WHOIS policy [are the] things about privacy. My suggestion is at this stage we do not know what the actual final policy of ICANN is going to be in terms of what data is made available. And therefore, recommendations about going out to the community and explaining it all when we don't have the final answers are probably not appropriate. So that's why I've come to the conclusion that I have.

Happy to take questions if there are? Let me get back in the room. Just a minute. I was actually looking at my own screen. Let me just get back in so I can see whose hands are up.

JONATHAN ZUCK: Alan has his hand up. Alan, do you want to go ahead?

HOLLY RAICHE: Yeah, okay, Alan?

ALAN GREENBERG: Yeah, thank you. A number of points. I'm in Jonathan's position that I am the chair of this review team and I am, if not the author, the co-author. I participated significantly in creating the recommendations, so I'm [more than] biased.

A couple of comments though. Number one is the overall analysis says of the 16 recommendations, which ICANN said they have all fully completed, we only found half of them fully completed. That might warrant a comment. It's not something – it's not a recommendation that we have, although it's built into the other recommendations. But

you might want to comment on that, that that's rather disappointing that it took five years and another review team to point out that ICANN wasn't doing their job. In my humble opinion, of course – or not humble.

Number two is in several of the recommendations, Holly, you're suggesting that you add a caveat "but not until the GDPR issues are resolved." I'll point out that in all of those either the recommendation or the implementation note along with it already says that.

HOLLY RAICHE: Yep.

ALAN GREENBERG: So you may not want to weaken your support because of a condition that's already implied there.

HOLLY RAICHE: Okay.

ALAN GREENBERG: Clearly, we're not going to rewrite WHOIS documentation until we know what WHOIS does. That's a given. On the other hand, the WHOIS portal is broken today. It may take a year to get the WHOIS issue fixed. They should fix the portal today because that's something that people are relying on. Right now, there is information that is available from WHOIS

in today's world but you can't get it from our portal because the portal is broken. So you may want to consider that.

Lastly, on the existing – under recommendations associated with the data accuracy in the old report, you say "strongly support." Of the new ones, you only say "support." And I'm curious as to if there's a reason why. Because among them you mention that the 2013 RAA has data accuracy requirements, verification accuracy requirements. But it is only for new registrations or when you're transferring to a new registrar. So if you owned that TLD before the 2013 RAA and you don't change registrars, your data never gets checked. And we currently have about 180 million if I remember correctly in that status. And it's slowly going down, but very slowly. We have a recommendation that says you have to fix that, and registrars as we know from the GDPR discussions do not want to have to contact their registrants and ask questions. There's going to be very strong pushback. You may want to take that into account when you write your final recommendation.

And lastly, I'll note with GDPR the data is going to be a lot less visible to the normal person and, therefore, it is going to rely almost solely on ICANN to ensure that the data is accurate. So you might want to think about that and think about adding some comments on ICANN's role in ensuring accuracy.

And the last point is on the previous slide you made a comment that from a user's perspective the safeguarding registrant data is not an issue. The recommendation that is there is not so much about hiding data but making sure that the people who have custody of the data are appropriately safeguarding it from change and safeguarding it in terms

of reporting breaches and things like that. And since users depend on websites and other people's domains to do their job, it does have an implication on users if suddenly a lot of their websites they use – so the protecting data, the emphasis in this report is not on the privacy aspects but making sure that you use legitimate or proper methodology. And that's part of GDPR, so chances are it's going to be covered anyway. But we felt it's appropriate to make the recommendation. Thank you.

HOLLY RAICHE: Well, thank you, Alan. First of all, again, I urge to put those comments on the wiki. It would be very useful. And just also because I was trying to keep to the template that Jonathan put, a lot of what I had to say is shortened.

ALAN GREENBERG: Yeah, that's fine.

HOLLY RAICHE: I tried to fit it all. I hope everybody goes to the wiki and at least has a read of the range of things that are [up for] policy, not just the ones that Marita and I have talked about. Are there any other questions? John, is that a new hand?

JOHN LAPRISE: Yes, it is.

HOLLY RAICHE: Oh, go ahead then.

JOHN LAPRISE: I want to pick up on Alan's point on data accuracy. This is not something that – this should be a high priority. We don't have a choice. This is GDPR. So whether we like it or not and whether the registrars like it or not, the data has to be accurate or else that's going to be grounds for complaints at some point in the future. So this is going to have to be addressed because it poses a risk to the organization. Thank you.

HOLLY RAICHE: Yeah, point well taken. Thank you. Alan, new hand?

ALAN GREENBERG: New hand. On GDPR and data accuracy, there is a varying interpretation of the data accuracy rules. It says that the data controller, if they are made aware of inaccuracies, must correct them or must move to try to correct them. The rationale behind that certainly in many people's minds is to allow a person whose personal data is collected to correct it if it is wrong. There is a debate….

HOLLY RAICHE: Actually, that's a very good….

ALAN GREENBERG: May I finish?

HOLLY RAICHE: Yeah, go ahead please.

ALAN GREENBERG: There is a debate on whether there is an obligation of the controller to verify that data, and the answer is, no, there is not. You can presume the data is accurate because someone gave it to you. But if for some reason you become aware that it was given to us deliberately inaccurately, for instance, do we have an obligation to try to fix it? The way I read GDPR, the answer is yes. So we have a GDPR rationale for verifying data, for doing our own independent verification. And if we find it is deemed to be inaccurate, we can take action on it. Other people say none of our business. If the original data owner is happy, then we have no right to change it. So there's a matter of interpretation there. Thank you.

HOLLY RAICHE: Still, it's a very important point to raise in terms of accuracy. Look, again, I would welcome any and all comments on both of these because they're very lengthy reports but they are important in their impact on end users. Thank you, and back to you, Jonathan.

JONATHAN ZUCK: Thanks, Holly, and thanks [inaudible] starting to use this template. I think it's allowing our conversations to be a little more crisp. So I really appreciate everybody's participation in this new way of doing issue presentations, and thanks a lot.

I think that we are at the top of the hour. I'll now ask if anybody has any other business. Alan has his hand up so, Alan, what's up?

ALAN GREENBERG: Thank you very much. I'd just like to point out something I've said before. One call a week, which this time is only an hour and not an hour and a half, is not going to be sufficient for addressing all of our policy issues. We're going to have to work offline and through other mechanisms because otherwise we're not going to meet it. Trying to funnel everything into a one-hour discussion is just not going to hack it. We need to come up with some better way of working between these meetings. Thank you.

JONATHAN ZUCK: Agreed. Working on it. Then the next call, Yesim, do you want to tell us when our next call is?

YESIM NAZLAR: Sure. Just one second please. Let me open my calendar. Actually, we used to hold the calls, the CPWG calls were rotating between 13:00 and 19:00 UTC. But due to the time change, we have moved to 20:00 UTC only for once. So I'm not sure if you would like to continue with 20:00 or 19:00 for next week's call, which will be on Wednesday, of course, 21 November. Which one do you prefer? 19:00 or 20:00 UTC?

JONATHAN ZUCK: Let's go ahead and just alternate again.

YESIM NAZLAR: Okay, sure, but with 19:00 or with 20:00? Because due to the time change we had recently.

JONATHAN ZUCK: Whichever one we didn't do last I guess is what I'm saying. So I don't think it's material.

ALAN GREENBERG: Jonathan, her question is for the alternate times do we want to keep it at the same local time for those in the north or the same UTC time because the time change has changed.

YESIM NAZLAR: Yes, thank you, Alan.

JONATHAN ZUCK: Oh, right.

ALAN GREENBERG: The same is true for this call.

JONATHAN ZUCK: I have no idea. I would say I think we'd accommodate with an earlier time, so let's do 19:00 UTC.

YESIM NAZLAR: 19:00, okay, noted, 21 November, 19:00 UTC will be our next call.

JONATHAN ZUCK: All right, sounds good. Thank you. Holly, do you have something quick?

HOLLY RAICHE: This is a very quick thing. What I was trying to comment on Alan's comment, we do have short calls but I think if we see this as not the way in which policy is discussed but the way in which policies are brought to people's attention and they can then go to the wiki and contribute, I don't see this call as substituting for the wiki. I see it as augmenting the wiki, if that makes sense.

JONATHAN ZUCK: That's right, and also raising issues for discussion, I think. So that's what we need to figure out is when things are controversial within the group and we need to spend more time on them, we're going to need to find a way to schedule specific calls. I think that's going to be the issue.

HOLLY RAICHE: Yep.

| JONATHAN ZUCK: | All right, thanks, folks. Thanks, everyone, for getting on. Thanks, everyone who is in Paris for getting on. Go back out into the sunshine and we'll see you next week. |

[END OF TRANSCRIPTION]